

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DARYL BOUIE, No. C 10-05650 CW (PR)
Petitioner, ORDER OF DISMISSAL
v.
VINCENT S. CULLEN,
Respondent.

On December 13, 2010, Petitioner, a state prisoner, filed a document with the Court entitled, "Motion for Continuance of Time for Filing My Writ of Habeas Corpus With the Federal Court System," which was opened as a habeas corpus action. In his motion, Petitioner requests "additional time for filing [his] writ of habeas corpus in the federal court, stemming from the denial of [his] state supreme court writ on 11/17/10, S182357." (Pet'r Mot. at 1.) He further states: "I am requesting an additional 30 days after my release from administrative segregation and being released to general population, where I can successfully obtain law library access and acquire the legal documents that are in my boxed-up property." (Id.)

On the same day the action was filed the Clerk of the Court sent a notice to Petitioner informing him that his action could not go forward until he filed with the Court a habeas corpus petition form, completed in full, within thirty days or his action would be dismissed. He was also sent another notice directing him to either pay the filing fee or file a completed prisoner's in forma pauperis (IFP) application. The Clerk sent Petitioner a blank IFP application and told him that he must pay the fee or return the

1 completed application within thirty days or his action would be
2 dismissed.

3 On January 24, 2011, the Clerk sent Petitioner a second notice
4 directing him to file his IFP application and a habeas corpus
5 petition form within thirty days or his action would be dismissed.

6 On January 31, 2011, Petitioner sent a letter to the Court
7 requesting another extension of time to file his petition because
8 he was being "illegally barred from having access to [his] legal
9 property, [from] all law library access, and the administration
10 won't even sign my pauperis form." (Jan. 31, 2011 Letter at 1.)

11 On February 11, 2011, the Clerk sent Petitioner a third
12 notice, granting him another thirty-day extension of time in which
13 to file the requisite documents or his action would be dismissed.

14 More than thirty days have passed since the date of the
15 Clerk's third notice, and Petitioner has not filed a petition or
16 his IFP application.

17 Accordingly, this action is DISMISSED without prejudice for
18 failure to prosecute, pursuant to Federal Rule of Civil Procedure
19 41(b). Because the Court has already provided Petitioner with
20 three extensions of time to file his petition and IFP application,
21 his "Motion for Continuance of Time for Filing My Writ of Habeas
22 Corpus With the Federal Court System" (docket no. 1) is DENIED as
23 moot.

24 The Clerk shall enter judgment in accordance with this Order,
25 terminate all pending motions and close the file.

26 IT IS SO ORDERED.

27 Dated: 4/19/2011



CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

DARYL BOUIE,

Plaintiff,

v.

VINCENT S CULLEN et al,

Defendant.

Case Number: CV10-05650 CW

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on April 19, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Daryl Bouie E-31124
CSP-San Quentin
3-D-30
San Quentin, CA 94974

Dated: April 19, 2011

Richard W. Wieking, Clerk
By: Nikki Riley, Deputy Clerk

United States District Court
For the Northern District of California